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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs

NICHOLAS LINDSEY,

Defendant.

Case No. 2:11-cr-217-LDG-CWH

UNITED STATES' MOTION FOR
PRE-TRIAL PRODUCTION OF
SUBPOENAED MATERIALS

In Re: Government Subpoena to Wells Fargo
Bank N.A., Dated 12/21/2012

The United States of America, through Christina M. Brown, Assistant United States Attorney, seeks an order from the Court pursuant to Federal Rule of Criminal Procedure 17(c), directing the custodian of records at Wells Fargo Bank N.A. to produce in advance of trial materials sought by the United States pursuant to trial subpoena.

In support, the United States provides as follows:

1. The United States has served the custodian of records of Wells Fargo Bank, N.A. a subpoena directing the custodian to produce or deny the existence of certain records in relation to the above-styled case. The subpoena directs the custodian to appear and produce the records on March 11, 2013, the date this matter is scheduled for trial.

2. On today's date, undersigned counsel contacted the records custodian to request

1 early production or denial of the existence of the records. The records custodian informed the
2 undersigned that although the records are prepared for production, they will not be produced absent
3 an order from this Court directing Wells Fargo to release them prior to the date stated in the subpoena.

4 3. FRCP 17(c) provides that a court may direct a witness to produce designated items
5 in court before trial or before they are to be offered in evidence. When the items arrive, the court may
6 permit the parties and their attorneys to inspect all or part of the items. *See also United States v.*
7 *Krane*, 625 F.3d 568, 574 (9th Cir. 2010)(court may grant pretrial subpoena in criminal case where
8 documents are evidentiary and relevant, not otherwise reasonably procurable in advance of trial by
9 exercise of due diligence, the parties cannot properly prepare without such production and inspection
10 in advance of trial and that failure to obtain such inspection may tend unreasonably to delay the trial,
11 and that application is made in good faith and not intended as a general “fishing expedition.”)

12 4. The United States submits that the records sought in advance of trial are evidentiary
13 and relevant to the proceeding. The information is exclusively in Wells Fargo’s possession and may
14 not otherwise be obtained. The parties require sufficient time to review and inspect the records, the
15 opportunity to meaningfully use them at trial by permitting themselves and witnesses to review the
16 records in advance, and may potentially stipulate to the introduction of certain evidence upon review.
17 Judicial economy and the ends of justice are served by obtaining the records prior to the day of trial.

18 Accordingly, the United States respectfully requests that the Court enter the attached Order
19 directing Wells Fargo to immediately produce the records to this Court, or in the alternative to the
20 United States for dissemination to the defendant.

21 Dated this the 16th day of January, 2013.

22 Respectfully Submitted,

23 DANIEL G. BOGDEN
United States Attorney

24 /s Christina M. Brown
25 CHRISTINA M. BROWN
Assistant United States Attorney
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CERTIFICATION OF SERVICE

The foregoing was service on William Carrico, Esq., counsel for Nick Lindsey, this the 16th day of January, 2013, via electronic case filing.

/s Christina M. Brown
CHRISTINA M. BROWN
Assistant United States Attorney

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	-oOo-	
)	
Plaintiff,)	Case No. 2:11-cr-217-LDG-CWH
)	
vs)	ORDER
)	
NICHOLAS LINDSEY,)	
)	In Re: Government Subpoena to Wells Fargo
)	Bank, N.A., Dated 12/21/2012
Defendant.)	
_____)	

Motion having been made by the United States and the Court otherwise having been sufficiently advised, IT IS HEREBY ORDERED that the custodian of records for Wells Fargo Bank, N.A. shall immediately produce the materials sought by the United States pursuant to subpoena dated December 21, 2012, in the above entitled case.

Said materials shall be produced as follows: _____
to the United States for dissemination to Defendant _____.

So ordered this the 31 day of January, 2013.


UNITED STATES MAGISTRATE JUDGE